

**PROCEDURES FOR CANONICAL
DISCIPLINARY PROCEEDINGS IN THE
ECCLESIASTICAL TRIAL COURT OF
THE MISSIONARY DIOCESE OF CANA WEST**

This document sets forth the general procedures that will be followed by the Ecclesiastical Trial Court (“the Court”) for the Missionary Diocese of CANA West (“the diocese”) in canonical discipline cases where Articles of Presentment (“AoP”) are filed with the Court Clerk.

1. The Court Clerk will promptly notify the Chancellor when AoP have been filed;¹
2. The Chancellor will direct the Court Clerk to send notice of the AoP to the Respondent and other interested parties, along with a general description of: a.) the Respondent’s rights in canonical discipline cases; b.) the date, time, and place of Respondent’s trial; c.) the requirements for Respondent’s designation of attorney/advocate; d.) the extent of discovery (if any) to be permitted, and requirements for requesting same; e.) the parties’ need to timely file lists of anticipated witnesses and evidentiary exhibits; f.) the general evidentiary and procedural rules (loosely patterned after the Federal Rules of Criminal Procedure and Federal Rules of Evidence) that will govern the order of proceedings and presentation of evidence at trial; g.) the consequences of Respondent’s failure to comply with the Court’s procedural guidelines, rulings, or instructions (*e.g.*, appearing for trial without a previously-designated attorney/advocate; refusing to enter a plea when arraigned at

¹ The procedures described in this document in no way diminish the discretion of the Diocesan Bishop, pursuant to Title V, Canon 3 of the diocesan canons, to take all temporary action as he, in his sole discretion, deems necessary against a respondent in cases where disciplinary measures have been initiated.

- trial; failing to appear at the date, time, and place specified for trial; etc.); h.) requests for continuance from either party to the proceeding; and i.) the procedural timeline for the case;
3. The Chancellor (or his appointed alternate for the Court panel in question), serving in the capacity of Ecclesiastical Trial Judge (“the Judge”), is vested with full discretion to a.) preside over all pretrial proceedings; b.) preside over the trial, making all procedural and evidentiary rulings, ruling on objections, taking judicial notice of appropriate facts, dictating the pace of trial, overseeing the general scheduling of witnesses, scheduling of breaks, setting times for closing arguments, and handling all other ancillary matters; c.) preside over the Court panel’s deliberations; d.) announce the Court panel’s verdict, if any; e.) schedule sentencing proceedings in any case in which a verdict of “guilty” is returned; and e.) to impose sanctions, including, but not limited to, the exclusion of evidence or testimony, the refusal to permit a witness to testify, or the refusal to permit an advocate to participate (or to continue to participate) in the trial, in the event any party or witness fails to comport himself in accordance with his (the Judge’s) instructions.
 4. The Diocesan Canonical Investigator (or his appointed counterpart), unless otherwise specified, will serve in the capacity of Diocesan Counsel for the purpose of presenting the diocesan case set forth in the AoP;
 5. At any time prior to the Judge calling the case for trial on the specified trial date, Respondent may confess his guilt, in writing, for one or more of the canonical offenses set forth in the AoP, and voluntarily submit to the discipline of the church (to be determined by the diocesan bishop) for said confessed offenses – if Respondent does not confess guilt to all of the canonical offenses set forth in the AoP, the Court, without delay, will proceed to try Respondent on the remaining

unconfessed canonical offenses unless the Judge chooses to dismiss them;

6. The general order of trial, subject to any exceptions permitted by the Judge, will be: a.) calling the case for trial; b.) identifying, for the record, the identities of all relevant parties present; c.) receiving announcements of ready; d.) arraigning Respondent by reading the AoP in open court; e.) entering Respondent's plea to the charges in the AoP; f.) presentation of opening statements; g.) Diocesan Counsel presentation of case against Respondent on behalf of the diocese, with diocesan witnesses subject to reasonable cross-examination by Respondent's attorney/advocate (or by Respondent, if Respondent has chosen to represent himself); h.) diocese rests its case; i.) Respondent presents defense case, if any, with defense witnesses subject to reasonable cross-examination by Diocesan Counsel; j.) Diocesan Counsel's rebuttal and Respondent's surrebuttal, if any; k.) presentation of Diocesan Counsel's and Respondent's closing arguments; l.) Court panel deliberations; and m.) the Judge's announcement of the Court panel's verdict;
7. If, after deliberating its verdict, a majority of the Court panel finds, by clear and convincing evidence, that Respondent is "guilty" of one or more of the canonical offenses alleged in the AoP, then the Judge will announce the verdict(s) in open court and schedule a date for the imposition of Respondent's sentence, said sentencing date to be set no sooner than the thirty-first (31st) day after the Judge's announcement of the verdict(s) of "guilty";
8. The Judge and other members of the Court panel, if they have heard or seen arguably inadmissible testimony or evidentiary exhibits, will be presumed to have considered only the admissible portions (if any) of that testimony or those exhibits in the formulation of its verdict(s);

9. If, after a reasonable period of time (said determination to be left to the sound discretion of the Judge), a majority of the Court panel is unable to find, by clear and convincing evidence, that Respondent is “guilty” of one or more of the canonical offenses alleged in the AoP, the Judge will announce verdict(s) of “not guilty” for the canonical offenses in question, which offenses will no longer be considered to the detriment of the Respondent;
10. All proceedings in open court will be recorded by a certified court reporter and/or by audio recording; and
11. Within the thirty (30) days following the date the Judge announces one or more verdicts of “guilty,” Respondent may, if he chooses, file notice of appeal both with the Court Clerk of the diocese and the Clerk of the Provincial Court of the ACNA – if Respondent’s notice of appeal is timely received (that is, physically received by both clerks within the aforesaid thirty [30] days), then the Court will have no jurisdiction to proceed with Respondent’s sentencing unless and until such time as the Provincial Court of the ACNA has ruled on Respondent’s appeal and returned the case to the Court.
12. When the date for the imposition of sentence has arrived for any Respondent convicted by the Court of one or more canonical offenses in accordance with these general procedures, the Diocesan Bishop shall pronounce sentence in accordance with Title V, Canon 9 of the diocesan canons and Title IV, Canon 8, Section 3 of the Canons of the ACNA.

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This summary of general procedures is intended only to supplement the Constitutions and Canons of the diocese and the ACNA. In the event that there is a conflict between the general procedures described in this document and either of the aforesaid Constitutions and Canons, the pertinent Constitution(s) and/or Canons will control.

The Diocesan Bishop, Chancellor, and Ecclesiastical Trial Judge will at all times retain broad discretion to interpret, adjust, supplement, and apply the general procedures described in this document, without advance notice, as circumstances may dictate, in a manner consistent with principles of fairness, due process, and natural justice.

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Adopted for publication by the Ecclesiastical Trial Court of the Missionary Diocese of CANA West on the 25th day of May, 2015, for use in all diocesan canonical disciplinary proceedings.

Christopher Lee Milner

Christopher Lee Milner, Chancellor
Missionary Diocese of CANA West